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GOVERNMENT OF GOA

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No. 2

GOVERNMENT OF GOA

Department of Law & Judiciary

Legal Affairs Division

Notification

8/6/2020-LA

The Goa (Recovery of Arrears of Tax through Settlement) (Amendment) Ordinance, 2020 (Ordinance No. 3 of 2020), which has been promulgated by the Governor of Goa on 20-05-2020, is hereby published for the general information of the public.

D. S. Raut Dessai, Joint Secretary (Law)-III.

Porvorim, 27th May, 2020.

The Goa (Recovery of Arrears of Tax through Settlement) (Amendment) Ordinance, 2020

(Ordinance No. 3 of 2020)

Promulgated by the Governor of Goa in the Seventy-first Year of Republic of India.

An Ordinance further to amend the Goa (Recovery of Arrears of Tax through Settlement) Act, 2009 (Goa Act 17 of 2009).

Whereas, the Legislative Assembly of the State of Goa is not in session and the Governor

of Goa is satisfied that circumstances exist which render it necessary for him to take immediate action.

Now, therefore, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Goa is pleased to promulgate the following Ordinance, namely:—

1. *Short title and commencement.*— (1) This Ordinance may be called the Goa (Recovery of Arrears of Tax through Settlement) (Amendment) Ordinance, 2020.

(2) It shall come into force at once.

2. *Amendment of long title.*— In the long title of the Goa (Recovery of Arrears of Tax through Settlement) Act, 2009 (Goa Act 17 of 2009) (hereinafter referred to as the "principal Act"), for the expression "31st day of March, 2015", the expression "31st day of March, 2016 or 31st day of January, 2020, as the case may be" shall be substituted.

3. *Amendment of section 2.*— In section 2 of the principal Act, for clause (j), the following clause shall be substituted, namely:—

"(j) "specified period" means,-

(i) any period of assessment upto the financial year ending on 31st day of

March, 2016, in case where such assessment is not disputed in appeal, revision or review filed under the relevant Act or before any Court;

(ii) any period of assessment upto the 30th day of June, 2017, in case where such assessment is disputed in appeal, revision or review filed under the relevant Act or before any Court.”;

4. *Substitution of section 4.*— For section 4 of the principal Act, the following section shall be substituted, namely:—

“4. *Eligibility for settlement.*— Subject to the other provisions of this Act, an applicant shall be eligible to make an application for settlement of his arrears of assessed tax, interest or penalty for the specified period:

Provided that no application for such settlement shall be entertained if appellate or revisional authority or Court has remanded the case back to the assessing authority for fresh assessment and such assessment has not been completed as on 31st day of January, 2020:

Provided further that the cases already decided or settled before commencement of the Goa (Recovery of Arrears of Tax through Settlement) (Amendment) Ordinance, 2020 shall not be taken up.”.

5. *Amendment of section 5.*— In section 5 of the principal Act, in sub-section (1), for the expression “before expiry of three months, from the date of coming into force of the Goa (Recovery of Arrears of Tax through Settlement)(Amendment) Act, 2016”, the expression “before expiry of six months, from the date of coming into force of the Goa (Recovery of Arrears of Tax through Settlement) (Amendment) Ordinance, 2020” shall be substituted.

6. *Amendment of section 6.*— In section 6 of the principal Act, in sub-section (2), for the existing provisos, the following provisos shall be substituted, namely:—

“Provided that an applicant being a dealer, whose appeal is pending before the Appellate

Authority under the relevant Act or before Tribunal, as on the 31st day of January, 2020 and who has paid ten percent or fifty percent of the disputed amount of tax, interest and penalty in accordance with sub-section (4) of section 35 or sub-section (2) of section 36, as the case may be, of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005), shall pay the balance amount, if any, by using e-challan and submit to the designated authority a self-attested photocopy of such challan in proof of payment of the amount as determined and intimated by the designated authority in Form II:

Provided further that where the designated authority is satisfied that the applicant being a dealer, whose appeal is pending before the Appellate Authority under the relevant Act or before Tribunal as on the 31st day of January, 2020, has paid ten percent or fifty percent of the disputed amount of tax, interest and penalty in accordance with sub-section (4) of section 35 or sub-section (2) of section 36, as the case may be, of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005) and that there is no further amount payable for the purpose of settlement at the rates specified in section 7, he shall issue a certificate of settlement in Form III hereto to the applicant and thereupon, such applicant shall be discharged from his liability to make payment of the balance amount of arrears of tax, interest and penalty to which he was liable before settlement:

Provided also that in respect of cases where any appeal or application for review/revision/rectification is not filed under the provisions of the relevant Act, the applicant shall not be eligible for refund of any penalty or interest already paid, either in full or in part under this Act.”.

7. *Substitution of section 7.*— For section 7 of the principal Act, the following section shall be substituted, namely:—

“7. *Rate applicable in determining the amount payable.*— The amount payable by an applicant for settlement of arrears of

tax, interest and penalty shall be as follows:—

(a) Where the arrears of tax, interest and penalty have arisen on account of any order of assessment relating to the specified period and where no review or appeal or revision is preferred against the said order on the date of commencement of the Goa (Recovery of Arrears of Tax through Settlement) (Amendment) Ordinance, 2020, such arrears shall be settled at the rate of 100% of the arrears of tax and interest levied thereon and/or penalty imposed thereof shall be waived fully.

(b) Where the arrears of tax, interest and penalty have arisen on account of any order of assessment relating to the specified period is disputed, either in review/appeal/revision or in any other suit or writ petition, filed before any court of law, on the date of commencement of the Goa (Recovery of Arrears of Tax through Settlement) (Amendment) Ordinance, 2020, such arrears shall be settled at the rate of 50% of the arrears of tax and interest levied thereon and/or penalty imposed thereof shall be waived fully.

(c) Where the arrears of tax, interest and penalty have arisen due to non-submission

of declaration forms or declaration certificates, such as, Form 'C', Form 'D', Form 'E-I/E-II', Form 'F', Form 'H' of the Central Sales Tax (Registration and Turnover) Rules, 1957 or certificates of exemption in Form ST XI A or ST XI B, of the Goa Sales Tax Act, 1964 (Act No. 4 of 1964) and dealer has filed an appeal against such dues determined in any order of assessment relating to the specified period, such arrears shall be settled at the rate of 50% of the arrears of tax to be worked out after considering the declaration forms or declaration certificates which the dealer has submitted till the date of making application in accordance with section 5 of this Act and the dealer shall be discharged from his liability of payment towards interest and penalty to which he was liable before settlement.

(d) Notwithstanding anything contained in clause (a), (b) and (c) above, the applicant shall not be eligible for refund of any amount that may become excess as a result of settlement under the provisions of this Act."

8. *Substitution of Form I and Form II.*— For the existing Form I and Form II of the principal Act, the following forms shall be substituted, namely:—

“FORM I

Application for Settlement

(See section 5)

To,

The Designated Authority,

I _____ Proprietor/Partner/Karta/Managing Director/Director/
/Principal Officer/duly authorized officer/President/Secretary/legal heir/Successor/assignee or nominee/
/myself/on behalf of an applicant, being eligible under section 4 of the Goa (Recovery of Arrears of Tax
through Settlement) Act, 2009, (Goa Act 17 of 2009), hereby apply for settlement of arrears of tax, penalty
and interest.

I furnish hereunder the requisite particulars:—

- | | | |
|--|---------|---|
| (1) Reference to Certificate of Registration: | : | |
| (i) VAT TIN | : | |
| (ii) CST No. | : | |
| (iii) Entry Tax Regn. No. | : | |
| (iv) Luxury Tax Regn. No. | : | |
| (v) Pre-VAT Sales Tax No. | : | |
| (vi) Entertainment Tax Regn. No. | : | |
| (2) Name of the applicant | : | |
| (3) Status of the applicant | : | |
| (4) Name and Style of the business | : | |
| or | | |
| The trade name of the business | : | |
| (5) Address of the Business | : | |
| (i) Principal place of business | : | |
| (ii) Factory premises | : | |
| (6) Present postal address, if it is different from (5) above | : | |
| (7) Period in respect of assessment of tax, interest and penalty, to which the application relates (Enclose copy of the assessment order for reference.) | : | Whether it is Sales Tax/CST/ Luxury Tax/Entertainment Tax/ /Entry Tax/VAT:- |
| (8) Arrears of tax applied for Settlement | : | |
| (i) Tax in arrears | : | |
| (ii) Interest in arrears | : | |
| (iii) Penalty in arrears | : | |
| | | _____ |
| | Total : | _____ |
| (9) (i) The reference of the appeal/petition filed (Please enclose a copy thereof). | : | |
| (ii) Authority with which it is pending either for hearing or decision. | : | |
| (iii) In case the appeal is pending before Tribunal, whether fifty per cent of the disputed amount is already paid? If yes, furnish details. (Please enclose a copy/ies of challans). | : | |
| (iv) In case the appeal is pending before Assistant Commissioner or Additional Commissioner, whether ten percent of the disputed amount is already paid? If yes, furnish details. (Please enclose a copy/ies of challans). | : | |
| (v) Date of presentation of appeal/review/revision, so pending. | : | |
| (10) Details of declaration forms or certificates | : | |
| (i) Type of form/certificate | : | |
| (ii) Total No. of forms/certificates | : | |
| (iii) Total assessable value of above | : | |
| (iv) Tax assessed on above | : | |
| (v) Arrears after considering forms/certificates | : | |

(11) Net amount of arrears applied for settlement

| | | |
|-------------------|---|-------|
| (i) Tax Rs. | : | |
| (ii) Interest Rs. | : | |
| (iii) Penalty Rs. | : | |
| Total | : | _____ |

DECLARATION

I/We solemnly declare that to the best of my/our knowledge and belief,—

- (a) the particulars and information given in this application are correct and complete;
- (b) the amount of arrears of tax, interest and penalty shown hereinabove are truly stated and relate to the relevant period as mentioned in this application; and
- (c) I/the applicant am/is not otherwise ineligible for making this application in terms of the provisions of said Act.

.....
(Signature)

.....
(Name of the signatory in full)

.....
(Status in relation to the applicant)

Place:

Date:

FORM II

Intimation to the applicant by the designated authority

[See section 6(2)]

No. _____

To,

Partner/Proprietor/Manager/Director
of _____
Address: _____

Registration No. _____ under the relevant Act.

Acknowledgement No. _____

Arrears in respect of period of assessment 01-04-_____ to 31-03-_____

Sir/Madam,

With reference to your application bearing acknowledgement No. _____ dated _____, for the settlement of arrears of tax, interest and penalty relating to the period _____ received in my office on _____, you are hereby informed that the amount payable for settlement of arrears of tax

and/or interest has been determined by me under sub-section (1) of section 6 of the Goa (Recovery of Arrears of Tax through Settlement) Act, 2009 (Goa Act 17 of 2009), as follows:

| | |
|--|-----------|
| (i) Arrears of tax | Rs. _____ |
| (ii) Arrears of interest | Rs. _____ |
| (iii) Arrears of penalty | Rs. _____ |
| (iv) Amount of tax and interest determined payable for settlement: | |
| Tax | Rs. _____ |
| Interest | Rs. _____ |
| Penalty | Rs. _____ |
| Total | Rs. _____ |

(Rupees _____ only)

You are required to pay the amount by generating an e-challan within twenty days from the receipt of this intimation and furnish a self-attested photocopy of the receipted copy thereof to this office.

Date:

Signature

(Seal)

Designation

.....
(Appropriate designated authority)".

Place : Raj Bhavan.

SATYA PAL MALIK

Date : 20-05-2020.

Governor of Goa.

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